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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,792	01/23/2001	Craig A. Lewis	07703-327001 / WCR0117	2248
26211	7590	10/05/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			CHAMPAGNE, DONALD	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 10/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/767,792	LEWIS ET AL.
Examiner	Art Unit	
Donald L. Champagne	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 July 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-17,19-25,27-40 and 42-71 is/are pending in the application.
4a) Of the above claim(s) 49-70 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-17,19-25,27-40,42-48 and 71 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 January 2001 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1, 3-17, 19, 25, 27-40, 42 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbst et al. (US 4245731 A) in view of Schulze, Jr. (US005111927A).
3. Herbst et al. teaches (independent claims 1 and 25) a method and article comprising a computer-readable medium for providing discounts for items in an automatic transaction machine, the method comprising: buying a beverage from a conventional *vending machine 1* (col. 2 lines 43-51), which reads on validating cash or a card and detecting a selection of an item or a group of items each having a preset vending price. Herbst et al. also teaches an *integrated beverage container receiver* that returns an appropriate deposit amount as coin, coupon or token (col. 3 lines 4-9 and col. 5 lines 33-35), which reads on a discount means with an associated discount value that, when rendered, is processed as a phantom coin signal.
6. Herbst et al. does not teach that said discount means comprises a coin-like token and is provided by a user to the automatic transaction machine. Schulze, Jr. teaches a promotional/discount means that comprises a coin-like token (col. 10 lines 24-25) that is “preferably” provided by a user as a promotional item to “an adjacent store” (col. 5 lines 12-20). Because Herbst et al. teaches a vending machine integral with, and therefore adjacent to the beverage container receiver, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Schulze, Jr. to those of Herbst et al.
7. Schulze, Jr. teaches using the container deposit refund to promote sales at an adjacent store. Herbst et al. teaches a beverage vending machine that is essentially an adjacent store. It would have been obvious to one of ordinary skill in the art, at the time of the

Art Unit: 3622

invention, to use the coin-like token taught by Schulze, Jr. to promote beverage sales at the integral vending machine taught by Herbst et al.

8. Herbst et al. teaches at the citations given above claims 3, 15, 38 and 71. Herbst et al. also teaches claims 9 and 32 (col. 1 lines 42-54).

9. Neither reference teaches claims 4-8, 10-14, 16, 17, 19, 27-31, 33-37, 39, 40 and 42.

Official notice is taken (MPEP § 2144.03) that these were common business practices at the time of the invention. Consider, for example, not returning the discount means and returning the discount value in cash (claims 4, 6, 27 and 29). The former would have been obvious if the discount means was detected to be invalid (e.g., a slug). Giving the discount value as cash would have been obvious when the beverage dispenser was empty and the customer had to seek product elsewhere. As another example, most promotions are limited as to time period (claims 8, 10, 14, 31, 33 and 37). Surely, dispensing change (claims 11 and 34) is well known.

10. Claims 20-24 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbst et al. (US 4245731 A) in view of Schulze, Jr. (US005111927A) and further in view of Griswold et al. (US006629591B1). Neither Herbst et al. nor Schulze, Jr. teach reading information off the discount means. Griswold et al. teaches reading information off the discount means (*smart token 10*, col. 5 lines 58-6 and col. 4 lines 38-47). Because the smart token taught by Griswold et al. would facilitate the variation in redemption values taught by Schulze, Jr. (col. 3 line 66 to col. 4 line 3) and because of the inherent advantages for vending machine use taught by Griswold et al. (col. 3 line 66 to col. 4 line 37), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Griswold et al. to those of Schulze, Jr. and Herbst et al.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of

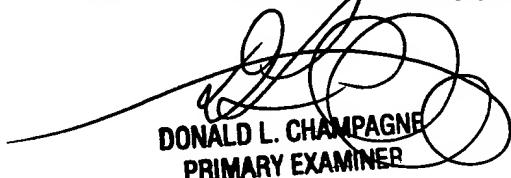
Art Unit: 3622

the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717. The fax phone number for all *formal* matters is 571-273-8300.
14. The examiner's supervisor, Eric Stamber, can be reached on 571-272-6724.
15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
16. **AFTER FINAL PRACTICE** – Consistent with MPEP § 706.07(f) and 713.09, prosecution generally ends with the final rejection. Examiner will grant an interview after final only when applicant presents compelling evidence that “disposal or clarification for appeal may be accomplished with only nominal further consideration” (MPEP § 713.09). The burden is on applicant to demonstrate this requirement, preferably in no more than 25 words. Amendments are entered after final only when the amendments will clearly simplify issues, or put the case into condition for allowance, clearly and without additional search or more than nominal consideration.
17. Applicant may have after final arguments considered and amendments entered by filing an RCE.

Art Unit: 3622

18. ABANDONMENT – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.



DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

23 September 2006